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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 003783

SIPDIS

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TAGS: [PREL](#) [PGOV](#) [MOPS](#) [PTER](#) [IZ](#)

SUBJECT: DRAFT CONSTITUTION SIGNED, PASSED TO UNAMI

Classified By: CHARGE D'AFFAIRES DAVID M. SATTERFIELD FOR REASONS 1.4 (b) AND (d).

[11](#). (C) SUMMARY. The Iraqi draft Constitution was signed and delivered to UNAMI for printing the afternoon of September

[13](#). Deputy Speaker Shahrستاني plans to announce the final text at a press conference September 14. SRSG Qazi has expressed concern that the amended text was never formally acted on by the TNA. Sunni Arab contacts expressed surprise that the draft Constitution had been signed. Deputy Constitution Committee Chairman Masoum confirmed that none of the fifteen added Sunni Arab members were present at the September 13 session. END SUMMARY.

[12](#). (SBU) The Constitution Committee was called to session on September 13. Deputy Speaker Shahrستاني attended the meeting and presented the members with the following five changes: (a) Article 3 was amended to state that Iraq is a "founding and effective member of the Arab League and is committed to its charter"; (b) deletion of the old Article 44 was confirmed (Note: Article 44 had guaranteed individuals the protection of international human rights treaties, but problematically had restricted the guarantee to only those treaty rights not contravening the constitution. End note.); (c) Article 108 -- now Article 107.8 -- was amended to reflect that the federal government will have exclusive authority over "planning policies relating to water sources from outside Iraq and guaranteeing the rate of water flow to Iraq and its just distribution inside Iraq in accordance with laws and international conventions"; (d) Article 111 -- now Article 110.7 -- was changed to give federal and regional authorities shared authority over the "policy of internal water resources in a way that guarantees its fair distribution"; and (e) Article 135 was added to state that there will be two Deputy Prime Ministers in the first electoral term.

[13](#). (C) Shahrستاني provided Charge with a copy of the draft signed by himself, Masoum and (Sunni Arab) Deputy Constitution Committee Chairman Adnan al-Janabi. Shahrستاني said that the text would be delivered to UNAMI and that he would announce the final text at a press conference September

[14](#). Shahrستاني indicated that he would do his utmost to line up full Shia Coalition support behind the text before he makes his announcement, but if necessary would proceed with the press conference on his own authority. His task was complicated, he said, by politically-motivated opposition to the Constitution draft from Ayad Allawi's INA and PM Jafari's Da'wa Party within the Drafting Committee.

[14](#). (C) PolOffs spoke separately with three Constitution Committee members -- (Kurdish) Deputy Chairman Masoum, Adil Nasir Haiji, and Yonadam Kanna -- all of whom reported that Shahrستاني told Committee members that this version is final and not subject to change. Masoum told PolOff that the changes on water resources reflected agreements encouraged by Ambassador Khalilzad and UK Ambassador Patey. Masoum further noted that the deletion of Article 44 and changes in Article 3 were also made in response to U.S. encouragement. PolOff noted the absence of "the Sunni 15" from the September 13 Constitution Committee meeting. Masoum responded that the Sunnis were not invited since they did not support the Constitution anyway. He added that he believed many Sunni Arabs, including even some in the group of 15, would support the text. He said that Shahrستاني, in response to queries from Shia Committee members, had said the changes came from Najaf, ending further discussion. (NOTE: In a separate conversation, Masoum acknowledged to PolCouns that there had been significant grumbling in the Constitution Committee about the latest amendments, and that some members wanted to reopen the document to other changes, including oil and gas. END NOTE.)

[15](#). (C) In a conversation with PolOff, SRSG Qazi confirmed UNAMI's receipt of the signed text. However, he expressed concern that the text had not been formally put before the TNA. Qazi said that the UN would be put in an "awkward position" if asked to use the latest draft for the UNAMI-supported civic outreach program without further TNA action. Qazi said he was particularly concerned over lack of support for the final draft from members of the Da'wa Party and Iraqi National Accord. Qazi said that if the draft were formally introduced to the TNA, UNAMI would be in a better position to support the draft. (COMMENT: We agree, and Charge has pressed Shahrستاني on this point. Shahrستاني responded that INA/Da'wa dissent over the Constitution makes

such a procedure more problematic than helpful, but would reassess the situation on Wednesday morning. END COMMENT.) UNAMI only received a paper copy of the draft, he said, but expects to receive an electronic version following Shahrستاني's September 14 press conference.

16. (C) In a discussion with PolOff, two Sunni Arab contacts -- Iraqi Republican Gathering leader Saad al-Janabi and Iraqi Council of National Dialogue (ICND) member Sadoun al-Zubaidi -- claimed surprise at the news that the draft had been signed. Both said Sunni Arab Constitution Committee members and experts would meet the evening of September 13 to discuss the changes and next steps. They reaffirmed the importance Sunni Arabs place on "unresolved" issues in the constitution. In contrast, Sunni Arab TNA member Abdul Rahman al-Nouaimi from Mosul told PolOff today that "due to the security situation, we need a Constitution now, and it's possible to amend it later."
Satterfield